

STATE OF MICHIGAN
COURT OF APPEALS

KAREN GIBBS ERNST,

Plaintiff-Appellant,

v

MICHAEL ERNST,

Defendant-Appellee.

UNPUBLISHED

May 25, 2001

No. 220450

Wayne Circuit Court

LC No. 98-800750-DM

Before: Jansen, P.J., and Zahra and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right the judgment of divorce entered by the trial court. We affirm.

The parties separated in July 1997 under a formal separation agreement. Plaintiff filed a complaint for divorce in January 1998, and moved to enforce the separation agreement. The trial court granted plaintiff's motion. Defendant subsequently moved to modify child support. After conducting a hearing, the trial court found that given defendant's income, the \$1,000 per month child support figure contained in the separation agreement shocked the conscience, and ordered support in an amount consistent with the Friend of the Court recommendation.

Generally, courts may modify child support payments upon a showing of a change of circumstances. *Crego v Coleman*, 463 Mich 248, 256; 615 NW2d 218 (2000). As our Supreme Court observed in *Crego, supra* at 256, the legislature has provided three separate statutory provisions that clearly establish that "child support agreements entered in divorce actions always remain modifiable." See: MCL 552.455(1); MSA 25.222(5)(1), MCL 552.17(1); MSA 25.97(1), and MCL 552.517; MSA 25.176(17).

Plaintiff argues that the trial court erred in failing to enforce all the terms of the separation agreement. However, the child support provision in the separation agreement specifically allows for termination of the child support requirement if a court of competent jurisdiction sets the amount of support for the child. The trial court set child support in accord

with the Friend of the Court recommendation. Where this action is contemplated by the separation agreement, there is no showing that the trial court failed to enforce the agreement.

Affirmed.

/s/ Kathleen Jansen

/s/ Brian K. Zahra

/s/ Donald S. Owens